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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,147	08/08/2003	Matthew Brian Hagen	16229-US	3429

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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/637,147	Applicant(s) HAGEN ET AL.	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,7,8,14 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-6,9-13 and 16-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/08/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 7, 8, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee *et al.* '728.

Lee *et al.* '728 disclose a seeding machine 10, 15 comprising:

a frame (12,69);

a main seed hopper (40a, 40b) mounted to the frame (12, 69);

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a plurality of planting units (17) are independently mounted to the frame (12, 69), each of the planting units (17) comprises an auxiliary seed hopper (52), a seed meter (54) for receiving and metering seed from the auxiliary hopper, and a furrow opener (56) for forming a planting furrow into which seed is deposited from the seed meter (54);

a source of pneumatic pressure (60, Fig. 10) directs seed from the main seed hopper (40a, 40b) to the auxiliary hoppers (52) through flexible hoses (76a);

the auxiliary hopper (52) is provided with sidewalls (98, 102, 104, and side rib pairs 108, 109) defining an interior (94) for receiving seed, the sidewalls are provided with an opening (un-numbered) having a removable screen (perforated wall 106) through which air can be vented.

Regarding the “sidewalls” and “opening” recited in claim 1, the side rib-pairs (108, 109 in Fig. 14) of Lee structurally comprise parts of a sidewall that define an “opening” as called for in claim 1. Note that Lee *et al.* ‘728 (col. 10, lines 16-17) disclose that “first and second rib pairs 108 and 109, respectively, are formed in opposing walls 104 and 102 that define a member receiving space therebetween that is dimensioned to receive wall member 106.” In this case the perforated wall member 106 with relatively small apertures 112 of Lee *et al.* ‘728 reads directly on the “removable screen” recited in claim 7, wherein the perforated wall member 106 with relatively small apertures 112 of Lee reads on the recited “removable screen.”

Regarding claim 7, Lee discloses an auxiliary hopper (52) for a planting unit (17) of a seeding machine (15), the auxiliary hopper (52) comprising:

sidewalls (98, 102, 104, and side rib pairs 108, 109) defining an interior (94) for receiving seed, the sidewalls are provided with an opening (un-numbered);

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an outlet seed passage (119, col. 10, lines 49-51) extending from the interior 94 to a seed meter (54);

a removable screen (perforated wall 106) is removably mounted in the opening (un-numbered) through which air can be vented.

Again, as noted above with respect to claim 1, the side rib-pairs (108, 109 in Fig. 14) of Lee *et al.* '728 structurally comprise parts of a sidewall that define an "opening." In this respect, note that Lee *et al.* '728 (col. 10, lines 16-17) disclose that "first and second rib pairs 108 and 109, respectively, are formed in opposing walls 104 and 102 that define a member receiving space therebetween that is dimensioned to receive wall member 106." In this case the perforated wall member 106 with relatively small apertures 112 of Lee *et al.* '728 reads directly on the "removable screen" recited in claim 7.

With respect to claim 8, Lee *et al.* '728 disclose an auxiliary hopper (52), as defined in claim 7, wherein the auxiliary hopper 52 is provided with an inlet seed passage (117) through which seed passes into the interior (94).

As to claim 14, Lee *et al.* '728 disclose a planting unit (17) for a seeding machine (15), the planting unit (17) comprising:

an auxiliary seed hopper (52) having sidewalls (98, 102, 104, and side rib pairs 108 and 109) defining an interior (94) for receiving seed, the sidewalls (108, 109) are provided with an opening (un-numbered) having a removable screen (106) through which air can be vented;

a seed meter (54) for receiving and metering seed from the auxiliary hopper (52);

and a furrow opener (56, Fig. 9, col. 7, lines 9-15) for forming a planting furrow into which seed is deposited from the seed meter (54).

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Again, as noted above with respect to claims 1 and 7, the side rib-pairs (108, 109 in Fig. 14) of Lee *et al.* '728 structurally comprise parts of a sidewall that define an "opening." In this respect see Lee *et al.* '728 (col. 10, lines 16-17) wherein it is disclosed that "first and second rib pairs 108 and 109, respectively, are formed in opposing walls 104 and 102 that define a member receiving space therebetween that is dimensioned to receive wall member 106." In this case the perforated wall member 106 with relatively small apertures 112 of Lee reads directly on the "removable screen" recited in claim 14.

Regarding claim 15, Lee *et al.* '728 disclose a planting unit (17), as defined in claim 14 wherein the auxiliary hopper (52) is provided with an inlet seed passage (117) through which seed passes into the interior (94).

Allowable Subject Matter

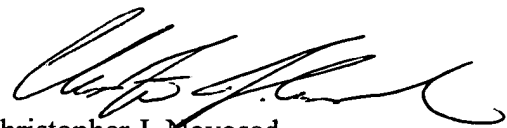
Claims 2-6, 9-13 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

December 27, 2004